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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/375,045	08/16/1999	ZULFICAR MURJI	CAN-117	4515

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EXAMINER

KIDWELL, MICHELE M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/375,045	<b>Applicant(s)</b> MURJI, ZULFICAR	
	<b>Examiner</b> Michele Kidwell	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on November 11, 2005 has been entered.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: the word "areas" should be replaced with area in line 4. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 and 5 – 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Glasgow et al. (EP 0 852 938 A2).

With respect to claim 1, Glasgow et al. (hereinafter Glasgow) disclose a sanitary napkin comprising a main body with a longitudinal axis, a first longitudinal side area and an opposite longitudinal side areas and a central region intermediate said two opposite side areas (figure 12), a preferential bending zone extending from one longitudinal side area to an opposite longitudinal side area, said preferential zone having a first end located in said first longitudinal side area and a second end located in said opposite longitudinal side area, said preferential bending zone including a segment crossing the longitudinal axis of the sanitary napkin, said segment crossing the longitudinal axis obliquely in relation to said longitudinal axis as set forth in figure 12.

The examiner contends that the central region is considered to be the area immediately prior to the preferential bending zone (81) thereby allowing the preferential bending zone in figure 12 to fall in the central region.

As to claim 3, Glasgow discloses a sanitary napkin comprising a plurality of preferential bending zones (81,82) spaced apart from one another.

With reference to claim 5, Glasgow discloses a sanitary napkin wherein the preferential bending zones are operative to create resistance to lateral compression when the sanitary napkin is in use as set forth in col. 8, lines 11 – 21.

With respect to claim 6, Glasgow discloses a preferential bending zone that is arcuate as set forth in figure 12.

Regarding claim 7, Glasgow discloses a sanitary napkin wherein the main body includes a fluid permeable cover layer, an absorbent system and a liquid impervious barrier layer as set forth in col. 4, lines 2 – 5.

Regarding claims 8 – 9, Glasgow discloses a sanitary napkin wherein the preferential bending zone is an embossing of the fluid permeable cover layer and on the absorbent system as set forth in col. 9, lines 52 – 57.

With respect to claim 10, Glasgow discloses the sanitary napkin including a fastener for retaining the main body to an undergarment as set forth in col. 18, lines 43 – 49.

As to claim 11, Glasgow discloses the fastener including a flap as set forth in figure 19.

Claims 1, 3 – 4, 6 – 7 and 9 – 11 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 297 03 589 U1.

With respect to claims 1, 3 – 4, 6 – 7 and 9 – 11, DE 297 03 589 U1 (hereinafter the '589 patent) discloses a sanitary napkin (including a liquid permeable cover layer, absorbent system and impervious barrier layer as shown in figure 2) having a main body with a longitudinal axis, a first longitudinal side area and an opposite longitudinal side area and a central region intermediate said two opposite side areas, a preferential bending zone (7) extending from one longitudinal side area to an opposite longitudinal side area, said preferential zone having a first end located in said first longitudinal side area and a second end located in said opposite longitudinal side area, said preferential bending zone including a segment crossing the longitudinal axis of the sanitary napkin, said segment crossing the longitudinal axis obliquely in relation to said longitudinal axis as set forth in figures 1 and 3 – 4. Additionally, figures 1 and 3 – 4 show a plurality of

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preferential bending zones spaced apart from each other, intersecting and being arcuate. The sanitary napkin includes a flap fastener as set forth in figures 1 and 4.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glasgow et al. (EP 0 852 938 A2).

The difference between Glasgow and claim 2 is the provision that the sanitary napkin has a thickness not exceeding 5mm.

It would have been obvious to one of ordinary skill in the art to modify the thickness of the Glasgow napkin to have a thickness not exceeding 5mm since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range includes only a level of ordinary skill in the art.

Additionally, it is well known in the art to manufacture thinner absorbent articles in order to reduce the bulkiness of the article making it more comfortable to the wearer while reducing the possibility of the article being seen through clothing.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 297 03 589 U1.

The difference between DE 297 03 589 U1 and claim 2 is the provision that the sanitary napkin has a thickness not exceeding 5mm.

It would have been obvious to one of ordinary skill in the art to modify the thickness of the Glasgow napkin to have a thickness not exceeding 5mm since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range includes only a level of ordinary skill in the art.

Additionally, it is well known in the art to manufacture thinner absorbent articles in order to reduce the bulkiness of the article making it more comfortable to the wearer while reducing the possibility of the article being seen through clothing.

### ***Response to Arguments***

Applicant's arguments filed November 11, 2005 have been fully considered but they are not persuasive.

In response to the applicant's argument that the preferential bending zones of Glasgow are not oblique in relation to the longitudinal axis, the examiner disagrees.

According to page 2, lines 17 – 21 of the instant specification, the obliqueness requirement is met as long as a segment of zone is oblique in relation to the longitudinal axis. As shown in figure 12, the end segments (70, 73) of the preferential bending zone are oblique (i.e., slanted or sloping) with respect to the longitudinal axis.

Regarding the applicant's argument that DE '589 does not have a first end located in the first longitudinal side area and a second end located in an opposite longitudinal side area, the examiner disagrees. The top of the napkin can be

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considered as a first longitudinal side area and the bottom of the napkin can be considered as an opposite longitudinal side area. Alternatively, the preferential bending zone may be considered as a whole, with opposite ends of each individual segment being located opposite each other.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Michele Kidwell  
Primary Examiner  
Art Unit 3761